



[BILLING CODE: 6750-01-S]

**FEDERAL TRADE COMMISSION**  
**Agency Information Collection Activities;**  
**Proposed Collection; Comment Request**

**AGENCY:** Federal Trade Commission (FTC or Commission).

**ACTION:** Notice.

**SUMMARY:** The information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act (PRA).

The FTC seeks public comments on the agency's shared enforcement with the Consumer Financial Protection Bureau ("CFPB") of the information collection requirements in subpart N of the CFPB's Regulation V ("Rule"). That clearance expires on November 30, 2018.

**DATES:** Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below.

Write "Paperwork Reduction Act: FTC File No. P072108" on your comment, and file your comment online at <https://ftcpublishcommentworks.com/ftc/regulationVsubpartNpra> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following

address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Requests for copies of the collection of information and supporting documentation should be addressed to Ryan Mehm, Attorney, Bureau of Consumer Protection, (202) 326-2918, Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:**

*Proposed Information Collection Activities*

Under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501-3520, federal agencies must get OMB approval for each collection of information they conduct, sponsor, or require. “Collection of information” means agency requests or requirements to submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing PRA clearance for FTC’s portion of the estimated burden for the information collection requirements associated with the CFPB’s subpart N of Regulation V, 12 CFR 1022.130 - 1022.138 (OMB Control Number 3084-0128).

The FTC invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the

quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond. All comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

## **I. Overview of the Rule:**

The FTC shares enforcement authority with the CFPB for subpart N of Regulation V.<sup>1</sup> Subpart N requires nationwide consumer reporting agencies and nationwide consumer specialty reporting agencies to provide to consumers, upon request, one free file disclosure within any 12-month period. Generally, it requires the nationwide consumer reporting agencies, as defined in Section 603(p) of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. 1681a(p), to create and operate a centralized source that provides consumers with the ability to request their free annual file disclosures from each of the nationwide consumer reporting agencies through a centralized Internet website, toll-free telephone number, and postal address. Subpart N also requires the nationwide consumer reporting agencies to establish a standardized form for Internet and mail requests for annual file disclosures, and provides a model standardized form that may be used to comply with that requirement. It additionally requires nationwide specialty consumer reporting agencies, as defined in Section 603(w) of the FCRA, 15 U.S.C. 1681a(w), to establish a streamlined process for consumers to request annual file disclosures.

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<sup>1</sup> Subpart N sets forth the former FTC’s Free Annual File Disclosures Rule that appeared under 16 CFR Parts 610 and 698. Rulemaking authority for this and several other FCRA rules was transferred to the CFPB under Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010). Title X comprises sections 1001 – 100H (collectively, the “Consumer Financial Protection Act of 2010”).

This streamlined process must include a toll-free telephone number for consumers to make such requests.

## **II. Burden statement:**

Because the FTC shares enforcement authority with the CFPB for subpart N, the two agencies split between them the related estimate of PRA burden for firms under their co-enforcement jurisdiction. Estimated PRA burden, excluding the halving (to be shown at the conclusion of this analysis), are as follows:

### **A. Requests Per Year From Consumers for Free Annual File Disclosures**

The Consumer Data Industry Association estimated that in 2011, the nationwide consumer reporting agencies provided approximately 30 million free annual file disclosures through the centralized Internet website, toll-free telephone number, and postal address required to be established by the FACT Act and subpart N.<sup>2</sup> When it last sought clearance renewal for the Rule, the FTC had been unable to obtain, through public comment or otherwise, updated information on request volume. As a proxy, it then assumed a volume of 35 million requests per year. We expect that the number of requests for free annual credit reports will rise over the next three years because of increases in the population and consumer awareness that they are entitled to a free annual report. As a proxy, we are now estimating 38 million requests per year as a representative average year to estimate PRA burden for

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<sup>2</sup> See Consumer Financial Protection Bureau Report to Congress, *The Impact of Differences Between Consumer- and Creditor-Purchased Credit Scores*, at 9 (July 19, 2011), available at [https://files.consumerfinance.gov/f/2011/07/Report\\_20110719\\_CreditScores.pdf](https://files.consumerfinance.gov/f/2011/07/Report_20110719_CreditScores.pdf).

purposes of the instant analysis.

The Commission, however, seeks more recent estimates of the number of requests consumers are making for free annual credit reports. In addition to data on the number of requests, data on how the number of requests has changed over time, and how these requests are being received – by Internet, phone, or by mail – would be most helpful.

#### **B. Annual File Disclosures Provided Through the Internet**

Both nationwide and nationwide specialty consumer reporting agencies will likely handle the overwhelming majority of consumer requests through Internet websites. The annual file disclosure requests processed through the Internet will not impose any hours burden per request on the nationwide and nationwide specialty consumer reporting agencies. However, consumer reporting agencies periodically will be required to adjust the Internet capacity needed to handle the changing request volume. Consumer reporting agencies likely will make such adjustments by negotiating or renegotiating outsourcing service contracts annually or as conditions change. Trained personnel will need to spend time negotiating and renegotiating such contracts. Commission staff estimates that negotiating such contracts will require a cumulative total of 8,320 hours and \$598,957 in labor costs.<sup>3</sup> Such activity is

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<sup>3</sup> Based on the time necessary for similar activity in the federal government (including at the FTC), staff estimates that such contracting and administration will require approximately 4 full-time equivalent employees (“FTE”) for the web service contracts. Thus, staff estimates that administering the contract will require 4 FTE, which is 8,320 hours per year (4 FTE x 2,080 hours/year). The cost is based on the reported May 2017 Bureau of Labor Statistics (BLS) rate (\$71.99) for computer and information systems managers. *See Occupational Employment and Wages – May 2017*, Table 1, available at <https://www.bls.gov/news.release/ocwage.t01.htm>. Thus, the estimated setup and maintenance cost for an Internet system is \$598,957 per year (8,320 hours x \$71.99/hour).

treated as an annual burden of maintaining and adjusting the changing Internet capacity requirements.

**C. Annual File Disclosures Requested Over the Telephone**

Most of the telephone requests for annual file disclosures will also be handled in an automated fashion, without any additional personnel needed to process the requests. As with the Internet, consumer reporting agencies will require additional time and investment to increase and administer the automated telephone capacity for the expected increase in request volume. The nationwide and nationwide specialty consumer reporting agencies will likely make such adjustments by negotiating or renegotiating outsourcing service contracts annually or as conditions change. Staff estimates that this will require a total of 6,240 hours at a cost of \$449,218 in labor costs.<sup>4</sup> This activity also is treated as an annual recurring burden necessary to obtain, maintain, and adjust automated call center capacity.

**D. Annual File Disclosures Requiring Processing by Mail**

Based on their knowledge of the industry, staff believes that no more than 1% of consumers (1% x 38 million, or 380,000) will request an annual file disclosure through U.S. postal service mail. Staff estimates that clerical personnel will require 10 minutes per request to handle these requests, thereby totaling 63,333 hours of time.  $[(380,000 \times 10 \text{ minutes}) / 60 \text{ minutes per hour} = 63,333 \text{ hours}]$

In addition, whenever the requesting consumer cannot be identified using an automated method (a website or automated telephone service), it will be necessary to redirect that consumer to send

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<sup>4</sup> Staff estimates that recurring contracting for automated telephone capacity will require approximately 3 FTE, a total of 6,240 hours (3 x 2,080 hours). Applying an hourly wage rate of \$71.99 (*see supra* note 3), estimated setup and maintenance cost is \$449,218 (6,240 x \$71.99) per year.

identifying material along with the request by mail. Staff estimates that this will occur in about 5% of the new requests (or 1,881,000)<sup>5</sup> that were originally placed over the Internet or telephone. Staff estimates that clerical personnel will require approximately 10 minutes per request to input and process those redirected requests for a cumulative total of 313,500 clerical hours.  $[(1,881,000 \times 10 \text{ minutes})/60 \text{ minutes per hour} = 313,500 \text{ hours}]$

#### **E. Instructions to Consumers**

The Rule also requires that certain instructions be provided to consumers. *See* Rule sections 1022.136(b)(2)(iv)(A-B), 1022.137(a)(2)(iii)(A-B). Minimal associated time or cost is involved, however. Internet instructions to consumers are embedded in the centralized source website and do not require additional time or cost for the nationwide consumer reporting agencies. Similarly, for telephone requests, the automated phone systems provide the requisite instructions when consumers select certain options. Some consumers who request their credit reports by mail might additionally request printed instructions from the nationwide and nationwide specialty consumer reporting agencies. Staff estimates that there will be a total of 2,261,000 requests each year for free annual file disclosures by mail.<sup>6</sup> Based on their knowledge of the industry, staff estimates that, of the predicted 2,261,000 mail requests, 10% (or 226,100) will request instructions by mail. If printed instructions are sent to each of these

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<sup>5</sup> This figure reflects five percent of all requests, net of the estimated one percent of all requests that might initially be made by mail. That is,  $0.05 \times (38,000,000 - 380,000) = 1,881,000$ .

<sup>6</sup> This figure includes both the estimated 1% of 38 million requests that will be made by mail each year (380,000), and the estimated 1,881,000 requests initially made over the Internet or telephone that will be redirected to the mail process (see *supra* note 5).

consumers by mail, requiring 10 minutes of clerical time per consumer, this will total 37,683 hours.

[(226,100 instructions x 10 minutes)/60 minutes per hour].

#### **F. Labor Costs**

Labor costs are derived by applying hourly cost figures to the burden hours described above.

Staff anticipates that processing of requests for annual file disclosures and instructions will be performed by clerical personnel, and estimates that the processing will require 414,516 hours at a cost of \$7,444,707. [(63,333 hours for handling initial mail request + 313,500 hours for handling requests redirected to mail + 37,683 hours for handling instructions mailed to consumers) x \$17.96 per hour.<sup>7</sup>]

As elaborated on above, staff estimates that a total of 14,560 labor hours will be needed to negotiate or renegotiate outsourced service contracts annually (or as conditions otherwise change) to increase internet (8,320 hours) and telephone (6,240 hours) capacity requirements for internet web services and the automated telephone call center. This will result in approximately \$1,048,174 per year in labor costs. [14,560 hours x \$71.99 per hour<sup>8</sup>]

Thus, estimated cumulative labor will costs are \$8,492,881.

#### **G. Capital/Non-Labor Costs**

As in the previous PRA clearance analysis, FTC staff believes it is likely that consumer reporting agencies will use third-party contractors (instead of their own employees) to increase the capacity of

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<sup>7</sup> See *Occupational Employment and Wages – May 2017*, Table 1, available at <https://www.bls.gov/news.release/ocwage.t01.htm> (Office and administrative support workers, general).

<sup>8</sup> See *supra* notes 3 and 4.



their systems. Because of the way these contracts are typically established, these costs will likely be incurred on a continuing basis, and will be calculated based on the number of requests handled by the systems. Staff estimates that the total annual amount to be paid for services delivered under these contracts is \$13,919,400.<sup>9</sup>

## **H. Net Burden for FTC, After 50:50 Split**

After halving the updated estimates to split the PRA burden with the CFPB regarding the Rule, the FTC's burden totals are 214,538 hours, \$4,246,441 in associated labor costs, and \$6,959,700 in non-labor/capital costs.

### *Request for Comments*

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Write "Paperwork Reduction Act: FTC File No. P072108" on your comment. Your comment -- including your name and your state -- will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission website, at <https://www.ftc.gov/policy/public-comments>. Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at

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<sup>9</sup> This consists of an estimated \$9,302,400 for automated telephone cost (\$1.36 per request x 6.84 million requests) and an estimated \$4,617,000 (\$0.15 per request x 30.78 million requests) for Internet web service cost. Per unit cost estimates are based on staff's knowledge of the industry.

<https://ftcpublic.commentworks.com/ftc/regulationVsubpartNpra> by following the instructions on the web based form. If this Notice appears at <https://www.regulations.gov>, you also may file a comment through that Web site.

If you file your comment on paper, write “Paperwork Reduction Act: FTC File No. P072108” on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC Website at <https://www.ftc.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential” – as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR

4.10(a)(2) – including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC Website – as legally required by FTC Rule 4.9(b) – we cannot redact or remove your comment from the FTC Website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the Commission Website at <https://www.ftc.gov> to read this Notice. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. You can find more information, including routine uses permitted by the Privacy Act, in the Commission’s privacy policy, at <https://www.ftc.gov/site-information/privacy-policy>.

Heather Hipsley  
Acting Principal Deputy General Counsel.  
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